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2 IN THE UNITED STATES DISTRICT COURT

3

4 FOR THE NORTHERN DISTRICT OF CALIFORNIA

5

6 JOHN GIMBEL,

No. C 11-05503 WHA

7 Plaintiff,

8 v.

**ORDER DISMISSING ACTION
FOR FAILURE TO SERVE AND
FAILURE TO PROSECUTE**

9 UNITED STATES OF AMERICA, U.S.
10 SECRET SERVICE, DEL NORTE
11 COUNTY, U.S. DISTRICT JUDGE
MARILYN HALL PATEL, and FEDERAL
BUREAU OF PRISONS,

12 Defendants.

13 _____/

14 This Section 1983 and *Bivens* action was filed by pro se plaintiff John Gimbel almost a
15 year ago in November 2011. After multiple reassignments, this action was reassigned to the
16 undersigned judge in February 2012. Upon reassignment, it was discovered that Gimbel had not
17 yet served his complaint on defendants within 120 days. However, because the summons issued
18 to Gimbel may have improperly omitted defendants' names and addresses, Gimbel was given
19 another opportunity to serve defendants. This was communicated to Gimbel via two written
20 orders (Dkt. Nos. 17, 18).

21 Gimbel picked up the newly-issued summons on March 13, 2012. Now, 120 days have
22 passed and Gimbel has still not filed proofs of service. Moreover, Gimbel has failed to appear at
23 two properly-noticed case management conferences. Therefore, this action is **DISMISSED**
24 **WITHOUT PREJUDICE** for failure to serve and failure to prosecute. The clerk shall close the file.

25

26 **IT IS SO ORDERED.**

27 Dated: July 24, 2012.

28 
WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE